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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/764,601	01/27/2004	Shoso Nishida	Q79600	6151	
23373 759	23373 7590 11/14/2005		EXAM	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800			AUGHENBAU	AUGHENBAUGH, WALTER	
			ART UNIT	PAPER NUMBER	
WASHINGTON	, DC 20037		1772		

DATE MAILED: 11/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

•			$\sim$		
		Application No.	Applicant(s)		
1		10/764,601	NISHIDA, SHOSO		
	Office Action Summary	Examiner	Art Unit		
		Walter B. Aughenbaugh	1772		
Period fo	The MAILING DATE of this communication ap or Reply	pears on the cover sheet with the c	orrespondence address		
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).					
Status					
1)[	Responsive to communication(s) filed on	<u></u> .			
· —	•	s action is non-final.			
3)	3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is				
	closed in accordance with the practice under	Ex parte Quayle, 1935 C.D. 11, 45	53 O.G. 213.		
Dispositi	on of Claims				
5) 6) 7)	Claim(s) <u>1-9</u> is/are pending in the application.  4a) Of the above claim(s) is/are withdra  Claim(s) is/are allowed.  Claim(s) is/are rejected.  Claim(s) is/are objected to.  Claim(s) <u>1-9</u> are subject to restriction and/or e				
Applicati	on Papers				
10)	The specification is objected to by the Examine The drawing(s) filed on is/are: a) acc applicant may not request that any objection to the Replacement drawing sheet(s) including the correct The oath or declaration is objected to by the Example 2.	cepted or b) objected to by the for drawing(s) be held in abeyance. See tion is required if the drawing(s) is obj	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).		
Priority u	inder 35 U.S.C. § 119				
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.					
Attachment	• •	<b></b>			
	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948)	4)			
3) 🔲 Infom	nation Disclosure Statement(s) (PTO-1449 or PTO/SB/08) No(s)/Mail Date		atent Application (PTO-152)		

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## **DETAILED ACTION**

## Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-2, drawn to a hollow body, classified in class 428, subclass 35.7.
  - II. Claims 3-6, drawn to a method of forming a hollow body, classified in class 264, subclass 478.
  - III. Claims 7-9, drawn to a mold, classified in class 425, subclass 542.
- 2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process such as blow molding.
- 3. Inventions III and I are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this case the product as claimed can be made by another and materially different apparatus such as an apparatus having a stationary mold.
- 4. Inventions II and III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another

materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process such as a process in which the movable mold is not moved.

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- 5. A telephone call was made to Darryl Mexic on September 20, 2005 to request an oral election to the above restriction requirement, but did not result in an election being made.
- 6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
- 7. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

## Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B. Aughenbaugh whose telephone number is 571-272-1488. While the examiner sets his work schedule under the Increased Flexitime Policy, he can normally be reached on Monday-Friday from 8:45am to 5:15pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is to 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Walter B. Aughenbaugh

11/04/05

HAROLD PYON

SUPERVISORY PATENT EXAMINER

11/9/05

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